



THE GOVERNMENT RESPONSE TO THE  
EIGHTEENTH REPORT FROM THE  
HOME AFFAIRS COMMITTEE SESSION 2010–12  
HC 563

# **Rules governing enforced removals from the UK**

**Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty**

**April 2012**

© Crown copyright 2012

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at:

UK Border Agency  
1<sup>st</sup> Floor Seacole Building  
2 Marsham Street  
SW1P 4DF

This publication is also available for download at [www.official-documents.gov.uk](http://www.official-documents.gov.uk)

ISBN: 9780101834223

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002488094 04/12 20108 19585

Printed on paper containing 75% recycled fibre content minimum.

## Government response to the Home Affairs Select Committee's Eighteenth Report of Session 2010-12: Rules Governing Enforced Removals from the UK, January 2012

The Committee published its report "Rules Governing Enforced Removals from the UK" on 26 January 2012. The UK Border Agency has considered the recommendations of that report and the Government response is below.

### **Conclusion, recommendation 1**

**Those who have no right to remain in the UK must leave the country and, if they refuse to do so voluntarily, they may have to be detained for a short time, if necessary escorted throughout the flight and, in extreme situations, may have to be restrained physically in order to prevent greater harm. However, whenever the state uses force to coerce a person, there need to be checks on that force. These checks take the form of carefully constructed procedures to limit harm, of adequate training and proper supervision of staff, and adequate means of complaint and redress if anything goes wrong. Where the state has contracted out responsibility for coercion, it retains ultimate responsibility for ensuring that all the checks are in place and working well. It is important that this is understood within the culture of both the Agency and that of its contractors, and not just acknowledged in formal documents. This is one of a number of areas of activity where there appears to be a reluctance by officials to accept constructive criticism, and as the UK Border Agency is not an independent body, but is in fact an integral part of the Home Office, this is a matter that we call on the Home Secretary to require the Permanent Secretary to address as part of the central management responsibilities of the Department. (Paragraph 11)**

It has been the practice of successive Governments to use private security companies to undertake escorting of immigration detainees where they refuse to leave the UK compliantly or where they are being removed on a chartered flight. These services are currently provided by Reliance Secure Task Management, who assumed the contract in May 2011. The UK Border Agency takes the welfare of those in its care very seriously and has a team of eight staff who monitor and report on Reliance's performance and the conduct of individual members of staff. However, given the volumes we cannot monitor every removal. All vehicles are therefore fitted with audio and digital recording facilities, and the Secretary of State appoints Independent Monitoring Boards (IMBs) who regularly report to the team leader. The Chief Inspector of Prisons also carries out announced and unannounced inspections. Whilst the UK Border Agency leads on addressing concerns and recommendations, reports from IMBs and the Chief Inspector of Prisons are also considered by Home Office Ministers, the Permanent Secretary and senior managers. The performance of the UK Border Agency is overseen by the Permanent Secretary through the Home Office Executive Management Board and regular Operating Reviews. The Home Secretary also monitors the overall performance of the Agency through the Home Office's Supervisory Board.

The UK Border Agency operates a comprehensive complaints system as part of its monitoring arrangements. All detainees are told how to complain on arrival at a removal centre and upon escort, and forms are widely available in a range of different languages. Complaints about the use of force are referred to the UK Border Agency's Professional Standards Unit for investigation and are also referred automatically to the police for their own parallel investigation. The Professional Standards Unit uses a team of dedicated investigators, who are all professionally trained to police standards.

Where an allegation is made about the conduct of an individual officer, the UK Border Agency contract monitor considers the content of the complaint and the totality of the evidence available to reach a decision whether it is appropriate to suspend his or her certification pending an investigation. Reliance will also commission its own internal investigation. In the event of an investigation being substantiated by the UK Border Agency, disciplinary action follows. This could amount to informal advice, re-training, formal warnings or in the most serious cases the revocation of an individual's certification to work for the Agency. The individual may also face criminal charges if the police decide that an offence has been committed.

Where detainees are not satisfied with the outcome of their complaints, they may refer the matter to the Prisons and Probation Ombudsman and are told at the time how to do so. The Ombudsman sends copies of all his reports to the UK Border Agency Director with responsibility for detention and escorting.

## **Conclusion, recommendation 2**

**We are not persuaded that head-down restraint positions are never used, even though they are not authorised. We recommend that the Home Office issue urgent guidance to all staff involved in enforced removals about the danger of seated restraint techniques in which the subject is bent forwards. We also recommend that the Home Office commission research into control and restraint techniques which are suitable for use on an aircraft. The use by contractors of unauthorised restraint techniques, sanctioning their use, or failing to challenge their use, should be grounds for dismissal. (Paragraph 18)**

In order to exercise their powers, detainee custody officers must be certified by the Home Secretary, a condition of which is that they have undergone training of restraint techniques approved by the National Offender Management Service (NOMS). The techniques and procedures are contained in NOMS' Control and Restraint manual and trainers are themselves certificated by NOMS. Officers are well aware that the use of any technique which pushes the head down and therefore could impede breathing is prohibited and any officer caught doing so would face severe disciplinary action, including dismissal.

In 2011 the UK Border Agency formally requested that NOMS' National Tactical Response Group conduct a review of the current restraint techniques being used by escorts including those used during overseas removals given the unique environment. NOMS advised in the first instance that the techniques used by escorts

are not unsafe. However, any use of restraint carries an element of risk and NOMS are currently examining the techniques to see if they can be adapted to make them even safer. Officials will carefully consider any recommendations arising from that review.

### **Conclusion, recommendation 3**

**The use of excessive numbers of escorts, to the extent that HM Chief Inspector of Prisons believes that escort numbers are in some cases detrimental to the removals process, is hard to justify against a background of reduced staffing levels across the public sector. It is a symptom of a weakness in the contracting process that the contractor is able to supply more staff than are required to do the job, with costs passed on to the Home Office. When the contract for enforced removals is next revised, it should specify precise ratios of escorts to detainees and the contractor should be able to depart from these only for clearly-defined, operational reasons. (Paragraph 21)**

The Committee's comments follow a recommendation of the Chief Inspector of Prisons in a report of an inspection of a chartered flight to Jamaica in 2011. Inspectors commented that the ratio of officers to detainees on that flight appeared high and recommended that "the number of escorting staff on a flight should not exceed that required by the normal risk assessment procedure". The UK Border Agency accepted the recommendation in principle. The UK Border Agency operates a working ratio of two escorts per detainee for chartered flights; this ratio is in line with our EU counterparts who also operate similar flights. However, it is not fixed and can be either increased or decreased depending on the specific circumstances of each flight. Reliance carries out a risk assessment of every enforced removal and allocates an appropriate number of escorts to each flight which is based on a combination of factors including the lay-out of the aircraft, the anticipated conduct of each detainee based on an individual assessment, any specific intelligence about attempts to disrupt the operation, and the duration of the flight given the requirement for escorts to be provided with rest periods to ensure they remain alert at all times, particularly to long haul destinations like Jamaica. The UK Border Agency further reviews every risk assessment to assess whether the number of escorts allocated is proportionate and can adjust the number where appropriate in consultation with Reliance. The UK Border Agency considered the findings of the Inspectorate report carefully with regards to the flight to Jamaica in 2011 but was satisfied that the number of escorts was proportionate.

The contractual requirements for escorting services are output-based and cannot be overly prescriptive without compromising the flexibility required by the service provider to carry out the required tasks effectively, based on their knowledge and expertise.

#### **Conclusion, recommendation 4**

**We agree with HM Chief Inspector of Prisons, that the use of reserves on enforced removal flights should be discontinued. (Paragraph 23)**

We agree that the UK Border Agency should ideally not have to use reserves on enforced flights. However, it is an unfortunate fact that detainees are removed from the manifest right up until the point when the aircraft is ready to depart on account of last minute applications, appeals and judicial reviews made by their legal representatives. To ensure value for money and maximise the use of the seats available on charter flights, reserve cases are taken to the airport to replace any who may have to be removed from the flight. Since the Chief Inspector's report of an inspection of Tinsley House in 2011 when the recommendation was made, the UK Border Agency has initiated a process whereby detainees who are on the reserve list are notified in advance that they may not fly. It would, however, be wrong to stop the practice completely given the significant number of last minute legal challenges faced by the Agency and where detainees have to be removed from the flights.

#### **Conclusion, recommendations 5 and 6**

**It seems to us that the form concentrates mainly on any risk to those escorting the detainee rather than to the detainee him/herself. Moreover, the section on health is cramped, and it is not at all clear that it would necessarily be completed in a way to make it immediately comprehensible to a non-medical expert, like an escort officer: the lack of space would tend to force the experts to make terse notes rather than giving helpful detail. This is of special importance if the use of some - or any - restraint techniques might exacerbate an underlying medical condition, such as heart disease or asthma. (Paragraph 25)**

**While we do not want to add to the paperwork which detention centres and escort officers have to deal with, we consider that there is a strong argument for providing a simple indication on the front page of the form flagging up the fact that the detainee has a medical condition which might lead to problems in the stressful conditions of enforced deportation. If a possible problem is flagged up, then the escort officers should be briefed on the practical consequences before the removal begins. (Paragraph 26)**

The UK Border Agency is already reviewing the process by which the need for medical escorts is identified and confidential medical information is exchanged, including when detainees refuse to give consent, and expect to pilot an improved process within the next few months. The Person Escort Record to which the Committee refers is a national document owned by the National Offender Management Service (NOMS) and is used by a range of different law enforcement agencies and suppliers, including the police and Prison Service. We are therefore not in a position to make arbitrary changes to the form ourselves and will discuss the Committee's recommendation with NOMS.

## **Conclusion, recommendation 7**

**It is a matter for serious concern that contractors should use racist language among themselves. That they were content to do so in front of not only UK Border Agency staff but also inspectors from HM Inspectorate of Prisons is shocking. It is possibly the result of a relationship between the Agency and its contractors which had become too cosy. We recommend that the senior management of the UK Border Agency send a clear and strong message to staff who are involved in removals, that they have the full support of senior management in challenging the use of racist language by contractors, and that they are expected to do so. The contract should be amended to include a provision which requires the contractor to pay a financial penalty to the Home Office where there is a proven incident of the use of racist language by its staff. (Paragraph 32)**

We agree with the Committee that such conduct is totally unacceptable and that the UK Border Agency should take prompt and decisive action against any person who behaves in such a way. The Committee's observations and recommendation relate to those made by the Chief Inspector of Prisons following the inspection of charter flights to Jamaica and Nigeria in 2011. The offending language was not heard by UK Border Agency staff who were on board the aircraft and the inspection team unfortunately did not bring it to their attention at the time. The UK Border Agency referred the allegations of misconduct to its Professional Standards Unit for investigation as soon as it learned about them from the inspectors' report, although it was not possible to identify the individuals given the lack of available detail. The Chief Inspector of Prisons has since agreed a new process with the UK Border Agency whereby initial written feedback is provided shortly after each visit.

We expect the highest standards from our staff and contractors and will take appropriate robust action against those who fail to adhere to them. If a complaint is substantiated, performance measures can already be levied under the terms of the contract, and the UK Border Agency can take action against individuals, which could involve re-training or in extreme cases revoking their certification completely.

The UK Border Agency has introduced a professional code of conduct for all those staff working with detainees, and Reliance has introduced a training programme of cultural change for all escorting staff. It has also introduced a freephone number to enable staff to report colleagues whose behaviour causes concern. All Reliance vehicles have CCTV fitted with digital audio capability.

The Home Office Equality & Diversity strategy outlines the legal obligations and responsibilities on the Department as an employer and contractor of services to prevent discrimination or harassment. All Home Office staff are given appropriate training. The learning programmes highlight that inappropriate language and behaviour should and will be challenged and where proven will result in disciplinary action and penalties including dismissal.

## **Conclusion, recommendation 8**

**We recommend that members of the Independent Monitoring Boards for immigration removal centres - or a similar independent monitoring network - be given access to chartered removal flights. However, the main issue is the need for better management and more confident behaviour by staff of the Agency and this is a matter that must be addressed by the Permanent Secretary in relation to removals as well as to the generality of the work of this Agency which is—as we have pointed out repeatedly—an integral part of the Home Office and not an independent or arm's-length agency. (Paragraph 40)**

The UK Border Agency has been piloting the presence of independent monitoring board members accompanying some chartered flights and intends to have discussions with the Ministry of Justice about this becoming a permanent fixture and broadening it to include all chartered flights. The Agency will also review again the contents of the Use of Force report and conduct a review of compliance to ensure escorts are completing it as comprehensively as they should.

As is outlined above, the UK Border Agency has introduced a professional code of conduct for all those staff working with detainees, and Reliance has introduced a training programme of cultural change for all escorting staff. As outlined in the answer to recommendation 1, Ministers and the Permanent Secretary oversee the work of the Agency through a variety of means.





information & publishing solutions

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [bookshop@parliament.uk](mailto:bookshop@parliament.uk)

Internet: <http://www.bookshop.parliament.uk>

**TSO@Blackwell and other Accredited Agents**

ISBN 978-0-10-183422-3



9 780101 834223